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# Letter dated 10 July 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached sixth report from the Czech Republic submitted pursuant to paragraph 6 of resolution 1373 (2001) as well as the response of the Czech Republic to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Loj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-43078 (E) 160806

## Annex

### Letter dated 4 July 2006 from the Permanent Representative of the Czech Republic to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to your letter dated 22 December 2005, I would like to submit the following reports of the Czech Republic: Additional information concerning the implementation of Security Council resolution 1373 (2001) provided by the Czech Republic at the request of the Counter-Terrorism Committee, and Report of the Czech Republic on the Implementation of Security Council resolution 1624 (2005) provided at the request of the Counter-Terrorism Committee (see enclosure).

The Czech Republic welcomes the current efforts being taken by the Committee to maintain and enhance a constructive dialogue with Member States and reiterates its readiness to continue to further cooperate with the Committee.

On behalf of the Czech Republic, I would like to thank the Committee for all its efforts in the fight against international terrorism.

(*Signed*) Martin **Palouš**
Ambassador
Permanent Representative



06-43078

**Enclosure**

**Additional information concerning the implementation of Security Council resolution 1373 (2001) provided by the Czech Republic at the request of the Counter-Terrorism Committee**

**1. Implementation measures**

1.1 The Czech Republic continues to consider ways to establish the criminal liability of legal entities. Since the notion is brand new in the domestic legal context, it is necessary to seek the most effective strategy for incorporating it in the national legislation, including its reflection in related laws. In the meantime, assets derived from crime can be recovered by means of a court order seizing items or assets under Section 73 of Act No. 140/1961, the Criminal Code ("Criminal Code"). The rules governing this "protective order" (i.e. an order designed to protect the society and prevent reoffending) have recently been reinforced by adding a new clause (Section 73, paragraph 1 (d)), effective since 1 July 2006, which permits the seizing of assets acquired by means of a crime or as a reward for a crime and do not belong to the offender, or the seizing of items that have been acquired by parties other than the offender in exchange for assets derived from crime.

Another way to recover assets that could be used to commit terrorist attacks is to order their seizure with reference to Section 73, paragraph 1 (c) of the Criminal Code, which permits the seizing of dangerous items or items that can be used to commit especially serious crimes, regardless of their ownership.

1.2. Rules on the freezing of terrorist assets are already incorporated in the domestic legislation. The Code of Criminal Procedure (Act No. 141/1961) permits assets to be freezed already in the pre-trial stage for the purposes of criminal proceedings, i.a. to secure the enforcement of criminal sanctions and protective orders. The freezing may be followed by confiscation (forfeiture of property, assets or items, fines, protective orders to seize assets or items).

1.3. The applicable legislation (Act No. 61/1996 as amended, Section 10, paragraph 8) authorizes the Financial Analytical Unit to exchange information with its foreign counterparts – financial intelligence units. The international legal framework for this exchange consists mainly of the 1990 Strasbourg Convention and bilateral intergovernmental agreements covering i.a. cooperation in the fight against money laundering and terrorist financing. The Warsaw Convention added to the system in 2005 has yet to enter into force. The Financial Analytical Unit may exchange information with foreign partners on the basis of international agreements, as well as on the basis of reciprocity.

Reciprocal exchange of information was enabled in 2004 by an amendment to Act No. 61/1996 regulating certain measures against legalization of the proceeds of crime and amending related acts.

Statistics on international exchange of information have been kept since 1998:

| Requests | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|---|---|---|
| Sent abroad | 96 | 62 | 105 | 126 | 104 | 175 | 101 | 69 |
| Received from abroad | 6 | 20 | 35 | 52 | 75 | 128 | 116 | 130 |

The Financial Analytical Unit may require information from financial institutions and other parties who are subject to the reporting duty, law enforcement authorities, customs authorities, tax administrators, intelligence services, supervisory authorities and other government authorities, for the purposes of its own inquiries as well as at the request of its foreign counterparts.

Information on specific cases of data exchange cannot be disclosed due to confidentiality rules. Generally, the predicative crimes are mostly financial fraud and tax crime. So far, none of the domestic inquiries or requests from abroad has concerned a charitable organization suspected of money laundering or terrorist financing.

1.4. Czech legislation covering this issue includes i.a. Act No. 61/1996 containing a list of parties who are required to monitor and report any suspicious activities resulting in an improper economic advantage. The list is by no means limited to financial institutions and includes the following:

(a) Banks, mutual savings banks and credit unions, the Czech Consolidation Agency, holders of postal service licences, legal entities and natural persons licensed to perform or to broker cash or cashless money transfers, to provide or to deal in leasing, credit or loan services, or to issue cashless payment instruments;

(b) The Czech National Bank, in keeping accounts and providing other banking services;

(c) The Securities Centre, the central depositary, entities keeping registers connected to the central securities register kept by the central depositary, entities keeping separate registers of investment instruments, entities keeping registers connected to the separate registers of investment instruments, securities market organizers, non-bank entities licensed to provide investment services, investment companies, pension funds and commodity exchanges;

(d) Insurance companies, insurance brokers and independent insurance liquidators in the course of activities related to life insurance;

(e) Postal services licence holders;

(f) Legal entities or natural persons licensed to trade in foreign currency on their own account or on a client's account;

(g) Holders of licences for casino gambling games, fixed-odds gambling or numerical lotteries;

(h) Legal entities or natural persons licensed to trade in real estate or to broker real estate transactions;

(i) Legal entities or natural persons licensed to buy out and deal in debts and receivables;

(j) Legal entities or natural persons licensed to broker savings schemes, leasing, credits or loans;

(k) Accountants, if they perform such activity as entrepreneurs, auditors or tax advisors;

(l) Judicial executors, in performing additional functions of a judicial executor in terms of special legislation;

(m) Legal counsels, notaries or other natural persons or legal entities, if they are entrepreneurs, when safe keeping money, securities or other property for their clients, and/or if the services required by the

client involve or are to involve acts performed by them on the client's behalf or on the client's account in

1. arranging for the purchase or sale of real estate or of an enterprise and/or a part thereof,

2. administering money, securities, shares or other property for their clients, including acts performed on the client's behalf or on the client's account in connection with the opening of an account with a bank or any other financial institution and/or the opening of a securities account, and with the administration of such account,

3. acquiring and collecting funds or other assets of monetary value in order to establish, manage or control a business company, business grouping or a similar arrangement, whether or not it constitutes a legal entity, or

4. money collection, payments, money transfers, deposits or withdrawals, whether cash or cashless, and/or any other actions leading to or directly causing money movements,

(m) Legal entities or natural persons licensed to trade in second-hand goods, in cultural heritage or in goods of cultural value or to broker such transactions or to accept goods as collateral for credit,

(o) Legal entities or natural persons not listed under (a)-(k) above, if they are entrepreneurs, when receiving cash payments amounting to more than EUR 15,000 in the context of a single transaction or auction.

The above persons and entities routinely report suspicious transactions to the Financial Analytical Unit in accordance with the legislation cited above. Alternative money transfer systems are subject to the same monitoring mechanism as financial institutions.

1.5.

(A) International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999

The Convention was ratified by the Czech Republic on 27 December 2005 and entered into force in respect of the Czech Republic on 26 January 2006. The Czech Republic is a party to all international instruments listed in the Annex of the Convention.

For information on compliance with the obligations arising from the Convention in respect of criminalization of the financing of terrorist attacks, see the Czech Republic's fifth report to the CTC, submitted under paragraph 6 of resolution 1373(2001) (doc. S/2005/61, relevant parts of 1.3) and the previous report. A set of rules designed to ensure consistent compliance with the Convention has been introduced by Act No. 284/2004 which amends i.a. Act No. 61/1996 regulating certain measures against the legalization of proceeds of crime. This amendment requires financial institutions to report any transactions carried out under circumstances that give rise to suspicion that the funds may be intended to finance terrorism, terrorist acts or terrorist organizations (for details see comments on item 1.1. in the Czech Republic's fifth report to the CTC submitted under paragraph 6 of resolution 1373(2001)- doc. S/2005/61 – and Annex 1 of the present report).

The following measures are available in Czech legislation to ensure compliance with the obligations concerning the liability of legal entities under Article 5 of the Convention:

- "Protective order" seizing items or assets (Section 73, paragraph 1 (c) and (d) of the Criminal Code): this order enables i.a. the seizing or recovery of assets belonging to parties other than the offender (including e.g. the property of legal entities) that have been acquired by means of a crime or intended to be used in committing especially serious crimes (note: this rule enables the seizing of a legal entity's assets, but does not make the legal entity criminally liable – for details see part 1.1. of the present report).
- Court order dissolving a company according to the Business Code (Section 68a of Act No. 513/1991, Business Code, as amended): this order starts the winding-up process;
- Cancelling or suspending the business licence of a legal entity licensed under Act No. 455/1991, the Business Licensing Act, as amended (Section 58, paragraphs 2 and 3): these steps are taken if the legal entity seriously violates the terms and conditions of its licence, the Business Licensing Act or special legislation;
- Cancelling the registration of a church or religious society or a union of churches or religious societies, if the church or religious society or union engages in unlawful activities (Section 22, paragraph 1 (c) of Act No. 3/2002 concerning churches and religious societies);
- Court order terminating a foundation or an endowment fund (Section 7, paragraph 5 (a) of Act No. 227/1997 concerning foundations and endowment funds as amended): at the request of the founder, executor or a party who proves his/her legal interest, the court may terminate a foundation or endowment fund that has seriously or repeatedly violated the applicable legislation, the charter or constitution of the foundation or endowment fund;
- The filing of claims related to the protection of personal rights (life and health) of natural persons and to general liability for damage under the applicable general rules of Act No. 40/1964, the Civil Code, as amended (Sections 11-17 and Section 415 et seq. of the Civil Code).

The competent Czech authorities continue to work on a comprehensive legislation establishing the liability of legal entities in accordance with the Czech Republic's obligations arising from international treaties, including Article 5 of the Convention (see part 1.1. of the present report).

B. International Convention for the Suppression of Acts of Nuclear Terrorism, adopted by the United Nations General Assembly on 13 April 2005

The Convention was signed by the Czech Republic on 15 September 2005. The proposal for its ratification has been approved by the Czech Parliament and is to be presented for approval to the President of the Czech Republic in the nearest future.

The basic obligations contained in Article 2 of the Convention are implemented in the Czech Republic's legislation by the following sections of the Criminal Code: Section 95 (in particular paragraph 1 (c), (f) and (g)) – terrorist attack (for text, see the Czech Republic's fifth report, doc. S/2005/61, part 1.1.), Section 186 – unauthorized production and possession of radioactive materials

and highly dangerous substances (for text, see the Czech Republic's fifth report, doc. S/2005/61, part 1.3.), Section 179 – public endangerment (for text, see the Czech Republic's fifth report, doc. S/2005/61, part 1.3.), Section 181a – endangering and damaging the environment, Section 219 – murder, Section 222 – bodily harm, Section 235 – extortion, in conjunction with Section 7 – preparing a crime, Section 8 – attempted crime, Section 9 – complicity, and Section 10 – organizing, aiding and abetting a crime.

# Report of the Czech Republic on the Implementation of Security Council resolution 1624 (2005) provided at the request of the CTC

## Paragraph 1

**Ad 2.1.**

On 22 October 2004, Act No. 537/2004 took effect by which a new crime of terrorist attack is introduced in Section 95 of the Criminal Code (see Annex 1). Its description covers a broad range of actions that can be considered terrorist. Section 164 of the Criminal Code regulates in general terms the incitement to such crime.

This legislation, effective from 22 October 2004, aims to make more efficient the fight against international organized crime in its worst, terrorist form, led by law protection authorities in the field of international law-enforcement cooperation in terms of Framework Decision of the Council of the European Union No. 2002/475/JHA on combating terrorism.

The development of human civilisation brings about technological progress but also a risk that new technologies may be abused by isolated groups of people (or even transnational organisations and whole states) and turned against the civilization itself. These circumstances lead to the demand for stricter repression and more exact definition of the crime that embraces actions leading to destabilisation of fundamental democratic values of the society, guaranteed by the authority of state, posing a real threat to basic values of human life and attacking the very role of state as a representative of the society based on democratic principles. For these reasons, a new definition of terrorist attack was formulated that abandons a narrow objective of protecting solely the state authorities and the establishment and is aimed at protecting general democratic principles against anyone who may attack them. International organisations but also foreign states will enjoy the same protection as national authorities. The new definition of crime is designed to protect, in the broadest sense, the above-mentioned principles against any form of actions having a terrorist character. Such actions are enumerated in the act and their list is in accordance with the Council Framework Decision on combating terrorism.

The newly formulated, separate definition of crime under paragraph 2 penalizes also persons who threaten to commit any of the actions listed in paragraph 1 (a) to (g) or who deliberately support such actions, financially, materially or otherwise. It is in fact another form of complicity, analogical to aiding and abetting, in particular by providing means for the accomplishment of a crime. However, this activity is very specific and may take on many forms. Sufficient financial support of terrorist activities is a fundamental prerequisite for operation of the criminal structures. It is therefore fully relevant to underline the abjectness of such conduct by formulating a separate definition of crime, clearly declaring that financial support of terrorism deserves a penalty just as strict as terrorism itself.

The third paragraph permits to impose heavier sanctions for actions referred to in paragraph 1, if any of the listed conditions for imposition of higher sanctions is fulfilled.

The fourth paragraph guarantees the same protection to a foreign state.

As regards punishability of incitement to terrorism, it should be pointed out that actions leading to accomplishment of such crime are also punishable, which applies not only to attempted actions but also to mere preparations for a terrorist attack (Section 7 of the Criminal Code).

The Criminal Code also provides for criminal liability of persons abetting, organising and aiding an accomplished or attempted crime (the act uses the term "accomplice") by stating explicitly that the same provisions apply equally to the punishability and criminal liability of accomplices and principal offenders.

The Criminal Code defines an abettor as a person who deliberately encourages a person to commit (or to attempt) a crime.

Organizer is a person who plans a crime or who directs it.

Accessory is defined as a person who assists others in committing a crime, in particular by providing means, removing obstacles, counselling, strengthening the perpetrator's intention or promising to assist after the act.

The Criminal Code also generally recognizes incitement to crime as one of the forms of complicity. Other forms include connivance, failure to prevent a crime and failure to report a crime. All these provisions refer explicitly to the crime of terrorist attack in terms of Section 95 of the Criminal Code.

The Criminal Code also contains an important provision penalizing criminal conspiracy, including participation, by a higher sanction (up to 15 years of imprisonment), if it is a criminal conspiracy aiming or seeking to commit a terrorist attack.

**Ad 2.2**

Entry and stay of persons in the territory of the Czech Republic is governed by Act No. 326/1999 concerning residence of aliens in the territory of the Czech Republic and amending some other acts. The Act enables foreign nationals to enter and stay in the Czech Republic's territory if they meet the conditions set out in the act. If, during the border check of persons crossing the Czech Republic's border, there are grounds to believe that a foreigner could pose a threat to national security, to seriously disrupt public order or obstruct execution of judicial or administrative decisions (including suspected incitement to commit a terrorist attack), he/she can be refused entry in the Czech Republic's territory under Section 9 paragraph 1 (k) (this provision does not apply to EU citizens).

If the foreigner is a person for whom an arrest warrant has been issued, the case falls within the competence of the Czech Republic Police.

A foreigner may also apply for a permit to stay in the Czech Republic's territory as an asylum-seeker (enjoying international protection). In such case, the Asylum Act (Act No. 325/1999) is

applied. Its Sections 15 and 16 specify the grounds for denial of asylum. Asylum shall not be granted if there is a well-founded suspicion that a foreigner who submitted an asylum application:

a) has committed a crime against peace, a war crime or a crime against humanity in terms of international instruments that contain provisions on such crimes,

b) has committed a serious non-political crime outside the Czech Republic's territory prior to the submission of the asylum application, or

c) is guilty of acts contrary to the principles and objectives of the United Nations Organisation.

Punishment by expulsion and the conditions for such punishment are regulated mainly by Section 57 of the Criminal Code (Act No. 140/1961). Such punishment may be imposed separately or as an additional sentence. Court may impose it on any offender fulfilling the conditions set out by law, regardless of whether the Criminal Code explicitly mentions it in its particular section, if it is necessary for the security of people or property or for the protection of another public interest.

The current legislation already ensures that possible terrorist acts in the Czech Republic may be sanctioned on the basis of the existing crime definitions and with reference to particular circumstances. The existing crime definitions include acts of terror (Section 93 – wilful killing or attempted wilful killing with the aim of undermining the constitutional system of the Czech Republic and Section 93a – taking hostages with the aim of compelling others to comply with requirements undermining the constitutional system of the Czech Republic), sabotage (Sections 95 and 96 of the Criminal Code), public endangerment (Section 179), endangering safety of an aircraft and a civil vessel (Section 180), murder (Section 219), hostage taking (Section 234a) and other acts.

Legal classification of an act will depend on the specificity and circumstances of each particular case; special attention is paid to the intentions of the offenders, not only principal ones but also those who provided or gathered means, including financial means, with the knowledge that they would be used to commit a terrorist act. Such conduct may be classified as an act of complicity in the form of organizing, aiding and abetting the above-mentioned crimes (Section 10) or as an act of preparing such crimes (Section 7), if it is not deemed to constitute complicity (e.g. where there is a closer connection with the acts of the principal offenders) (Section 9).

An attempted crime, complicity in a crime in the form of organizing, aiding and abetting and preparations for a crime in terms of Section 41 paragraph 2 of the Criminal Code are generally punishable, which applies to all crimes defined in the Criminal Code.

It should be noted that accomplices and principal offenders face the same sanctions; and that attempted crimes and preparations for a crime are punished by the same sentence as an accomplished crime.

Membership of an organized group (Section 34g) may be considered an aggravating circumstance for all the above-mentioned crimes, as well as for preparation, attempt or complicity in such crimes.

If there is a provable link between a financial resource and terrorist structures, a relevant provision of the Criminal Code that penalizes actions of members of criminal conspiracy (Section 89 paragraph 17 of the Criminal Code) may be applied. If the conditions specified in Sections 43 and 44 are fulfilled, such act may be classified as a crime committed for the benefit of criminal conspiracy. It may also be regarded as a separate crime of participation in criminal conspiracy under Section 163a of the Criminal Code.

An amendment to Act No. 134/2002, effective from 1 July 2002, introduced in Section 252a a separate definition of the crime of legalizing proceeds of crime, directly applicable to the so-called money-laundering which, in some specific cases, may be closely linked to organized crime and terrorism.

It should also be added that, within the Czech legislative framework, an act of collecting funds for the purpose of *ex post* remunerating or supporting perpetrators of terrorist attacks will be classified at least as an act of approving a crime in terms of Section 165 paragraph 2 of the Criminal Code, if no direct link between such act and terrorist activities can be proved. If there were such link, one of the above-mentioned sanctions, i.e. for complicity, assistance or preparation would be applied.

**Paragraph 2**

**Ad 2.3**

In order to strengthen the security of its borders, the Czech Republic cooperates with other states, namely within the international treaties on the police cooperation[1]. The treaties focus in particular on the fight against crime, protection of public order and security in border regions.

In particular, the treaty with the Slovak Republic addresses cooperation in the field of combating international organized crime, terrorism and its financing and corruption. The treaty provides for the exchange of information on the planned terrorist acts directed against the interests of the contracting parties and on terrorist groups whose members plan, commit or have committed crimes in the territories of the two contracting parties.

The above-mentioned treaties concern for example the exchange of information on crimes committed in border areas, on their perpetrators and accessories, on suspected perpetrators and accessories and on circumstances of such crimes and steps taken in their respect. Parties also share experience and information on new forms of crime in the border areas.

Within a special form of cross-border cooperation, police authorities of one party may request the other party's assistance in e.g. identifying holders, owners and drivers of road vehicles, vessels and aircraft, providing information on driving licences and vehicle documentation, verifying legitimacy of residence of foreigners, type of their residence permit, authorization to stay and place of

[1] e.g. Treaty between the Czech Republic and the Federal Republic of Germany on cooperation between police authorities and border protection authorities in borderland areas of 19 September 2000,
Treaty between the Czech Republic and the Slovak Republic on cooperation in combating crime, in protecting public order and in protecting national borders of 27 January 2004,
Treaty between the Czech Republic and the Republic of Austria on police cooperation and on the second amendment to the European Convention on Mutual assistance in Criminal Matters of 20 April 1959 of 14 July 2005.

residence, providing information on provenience of assets (firearms, road vehicles, vessels and aircraft) or identifying owners of all sorts of telecommunication means.

Joint action by police authorities of the two parties is *inter alia* focused on fighting against illegal crossing of state borders and people smuggling activities, often associated with trafficking in human beings.

**Paragraph 3**

**Ad 2.4 and 2.5**

Year 2005 has confirmed that the situation in the Czech Republic does not differ substantially from the situation in other EU countries. Among the new EU Member States, the Czech Republic ranges among those who have formulated their anti-extremist policy based on a number of permanent and long-term measures focused on preventive programmes as well as repression. Nevertheless, some areas that would deserve and will continue to require increased attention were also identified in 2005. These areas include in particular organisation of right-wing extremist concerts in the Czech Republic and abuse of the Internet to spread hateful ideas.

In addition to the systematic work of police and intelligence services, extremism and xenophobia are fought mainly through preventive activities of the Education Ministry, the Culture Ministry and the Labour Ministry and of the Probation and Mediation Service. Activities of the non-governmental and private sector and general awareness-raising activities were also very important. Broadly publicised statements of some politicians, condemning specific cases of extremism and promoting cooperation between minorities and the majority population have also played a significant role.

International aspects of the issue were also continuously reflected. The *Annual Report of the European Union on Human Rights (for the period from 1 July 2004 to 30 June 2005)* has confirmed an unchanged trend in the position of the EU, ranging the fight against racism, anti-Semitism and xenophobia among the fields of special interest. This position was reflected not only in the adoption of a preliminary text of the *EU Strategy for Combating Radicalisation and Recruitment to Terrorism*, aimed at prevention and proposing to open a dialogue with Muslim communities, but also in the materials and recommendations of the *European Monitoring Centre on Racism and Xenophobia* (EUMC) concerning the manifestations of anti-Semitism, Holocaust denial and also Islamophobia.

On 19 April 2006, the Government of the Czech Republic approved, by its Resolution No. 438 of 19 April 2006, the *Report on the situation in the field of public order and internal security in the territory of the Czech Republic in 2005*. Annex 2 of this document describes the extremist activities in the Czech Republic.

Registered and non-registered extremist entities active in the Czech Republic are monitored on an ongoing basis. Manifestations of anti-Semitism, including Holocaust denial, and of Islamophobia are closely followed. Data on crimes with extremist motivation, including racism and xenophobia are also collected and evaluated.

At the beginning of 2006, the dialogue was opened with the Muslim community in the Czech Republic, which is not very large for the moment. In 2005, no preventive activities were organized (round tables, seminars, including with foreign participation).

A coordinator in this field is the *Interministerial Commission for Combating Extremism, Racism and Xenophobia*, an advisory body of the Ministry of the Interior and an expert advisor of the Czech Republic's Liaison Officer for the *European Monitoring Centre on Racism and Xenophobia* (EUMC). At the international level, there is the *Working Group for Combating Extremism of V4 Countries and Austria* (coordinated by the Czech Republic's Interior Ministry).

The Ministry of the Interior currently drafts its *Position on interpretation of definitions of crimes committed by extremists and problems with furnishing evidence for these crimes*.

No terrorist crimes with an extremist context were committed in the Czech Republic.

**Paragraph 4**

**Ad 2.6**

The Czech Republic is a party to all major international treaties in the field of international human rights law, refugee law and international humanitarian law, in particular:

- International Covenant on Civil and Political Rights, including both Optional Protocols,
- International Covenant on Economic, Social and Cultural Rights,
- International Convention on the Elimination of All Forms of Racial Discrimination,
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol is currently in the process of ratification,
- Convention on the Elimination of All Forms of Discrimination against Women, including the Optional Protocol,
- Convention on the Rights of the Child, including the Optional Protocol on the involvement of children in armed conflicts,
- Convention relating to the Status of Refugees, including the Optional Protocol,
- Geneva Conventions of 12 August 1949 and
- both Protocols Additional to the Geneva Conventions of 12 August 1949.

Commitments arising from these treaties are enshrined in the internal legislation, in particular in the Charter of Fundamental Rights and Freedoms, which is an integral part of the constitutional order of the Czech Republic. According to Article 10 of the Constitution, the promulgated international treaties, the ratification of which was approved by the Parliament and which are binding on the Czech Republic, are an integral part of its legal order; where the provisions of an international treaty differ from those of a national law, the international treaty is applied.

According to Article 1 paragraph 2 of the Constitution, the Czech Republic fulfils the obligati arising from international law. In implementing measures under the Security Council resolution 1 (2005), the Czech Republic's authorities are bound to fulfil the obligations arising not only fr international treaties but also from the international customary law.

**Annex 1:**

Act No. 537/2004 introduced in the Criminal Code a new crime – terrorist attack:

Section 95

Terrorist attack

(1) A person who, with the intention to undermine the constitutional order or defence capability of the Czech Republic, to damage or destroy the fundamental political, economic or social structure of the Czech Republic or of an international organization, to seriously intimidate the population or to unlawfully compel the government or any other authority or an international organization to do, to omit doing or to tolerate anything,

a) commits an attack endangering human lives or health with the aim to cause death or serious bodily harm,

b) takes hostages or kidnaps a person or persons,

c) destroys or causes extensive damage to public installations, transport or telecommunication systems, including information systems, fixed platforms on the continental shelf, power supply installations, water supply installations, medical or any other important facilities, public places or property with the aim to endanger human lives, the safety of an installation, system or place, or to expose property to the risk of extensive damage,

d) disrupts or stops the supply of water, electric power or any other vital natural resource with the aim to endanger human lives or to expose property to the risk of extensive damage,

e) seizes or exercises control over an aircraft, vessel or any other means of passenger or freight transport, or destroys or seriously damages navigation equipment or substantially interferes with its operation, or communicates false information, thereby endangering human lives or health, the safety of such means of transport, and/or exposing property to the risk of extensive damage,

f) without permission, manufactures or otherwise acquires, holds, imports, transfers, exports or otherwise supplies or uses explosives, a nuclear, biological, chemical or any other weapon with mass destructive effects, and/or carries out, without permission, research and development of nuclear, biological, chemical or any other weapon or means of combat or explosives prohibited by law or by an international treaty, or

g) exposes people to the risk of death or serious bodily harm or exposes another person's property to the risk of extensive damage by causing a fire or flood or the harmful effects of explosives, gas, electric power or other similarly dangerous substances or forces, or commits other similarly dangerous acts, or increases or aggravates such public endangerment or impedes the steps taken to avert or alleviate it,

shall be punished by imprisonment for a term of five to fifteen years in addition, according to the court discretion, also by the forfeiture of property.

(2) The same sanctions shall be imposed on a person who

a) threatens to commit the acts described in paragraph 1 above, or

b) provides financial support, supplies material resources or provides other support for such acts.

(3) The offender shall be punished by imprisonment for a term of ten to fifteen years accompanied by forfeiture of property as the court deems fit, or by an exceptional sentence,

a) if he or she commits the act described in paragraph 1 above as a member of an organized group,

b) if by the act he causes serious bodily harm or death,

c) if by the act he or she renders a large number of people homeless,

d) if by the act he or she causes major difficulties in the production or supply of basic goods,

e) if by the act he or she causes extensive disruption of transport,

f) if by the act he or she causes extensive damage,

g) if by the act he or she or another person gains substantial profit,

h) if by the act he or she seriously endangers the international position of the Czech Republic or the position of an international organization of which the Czech Republic is a member, or

i) if he or she commits the act during the state of national emergency or the state of war.

(4) The protection under paragraphs 1-3 above is accorded also to foreign States.

**Annex 2:**

**Relevant sections of the Criminal Code**

| | |
|---|---|
| Section 152 | Infringement of copyright and related rights and database rights |
| Sections 155 and 156 | Attack on a public official |
| Section 163a | Participation in a criminal conspiracy |
| Section 174 | False accusation |
| Sections 196 and 197a | Violence against a group of persons and against an individual |
| Section 198 | Defaming a nation, ethnic group, race and opinion |
| Section 198a | Inciting hatred for a group of persons or the restriction of their rights and freedoms |
| Section 199 | Hoaxing |
| Section 202 | Rioting |
| Section 219 | Murder |
| Sections 221 and 222 | Bodily harm |
| Section 234 | Robbery |
| Section 235 | Extortion |
| Section 236 | Restricting the freedom of religion |
| Section 238 | Arbitrary interference with home |
| Sections 260, 261 and 261a | Supporting and promoting movements seeking to suppress human rights and freedoms |

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**Letter dated 10 July 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council**

The Counter-Terrorism Committee has received the attached sixth report from Mauritius submitted pursuant to paragraph 6 of resolution 1373 (2001) as well as the response of Mauritius to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

06-43084 (E) 160806

## Annex

### Letter dated 6 July 2006 from the Head of Mission of Mauritius addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 6 April 2006, I have the honour to transmit herewith the sixth report of the Government of Mauritius to the Counter-Terrorism Committee (see enclosure).

A copy of legislation related to the sixth report will be submitted shortly.

*(Signed)* J. K. **Ramasamy**
for Head of Mission

## Enclosure

### Report of the Government of Mauritius to the Counter-Terrorism Committee on the implementation of resolutions 1373 (2001) and 1624 (2005)

**(1.1) The Committee notes that Mauritius is a party to 10 of the international counter-terrorism conventions and protocols and that the remaining instruments are under consideration (fifth report, p3). Please provide a progress report on Mauritius becoming a party to the remaining conventions, including the recently adopted Nuclear Terrorism Convention and the amendments to the Convention for the Physical protection of Nuclear material adopted in July 2005.**

Legislation is being drafted to allow Mauritius to become party to the remaining counter terrorism treaties.

**(1.2) The Committee welcomes the information that, as at 31 December 2003, Mauritius' Financial Intelligence Unit(FIU) had received 175 suspicious transaction reports (STRs), primarily from banks and management companies (fourth report, p7). How many of these STRs were analyzed and disseminated and, of that number, how many have led to investigations, prosecutions or convictions? With regard to such investigations, prosecutions and convictions, if any, on the basis of what laws or regulations did they take place? The Committee would also appreciate similar updated information for the period 31 December 2003 to the present, disaggregated, if possible, by offence.**

The information submitted at paragraph 1.2 on the 'Number of Suspicious Transaction Reports (STRs) Received and Disseminated' has been updated as at May 2006.

(a) Number of STRs Received:

| Year | Money Laundering | Terrorist Financing | Total |
|---|---|---|---|
| 2002 | 19 | 0 | 19 |
| 2003 | 156 | 1 | 157 |
| 2004 | 119 | 1 | 120 |
| 2005 | 89 | 0 | 89 |
| 2006* | 60 | 0 | 22 |
| **Total** | **443** | **2** | **445** |

* As at May 2006

(b) Number of STRs Disseminated

| Year | Money Laundering | Terrorist Financing | Total |
|---|---|---|---|
| 2003 | 40 | 0 | 40 |
| 2004 | 79 | 2 | 81 |
| 2005 | 129 | 0 | 129 |
| 2006* | 23 | 0 | 23 |
| **TOTAL** | **271** | **2** | **273** |

*** As at 20 May 2006**

The Financial Intelligence Unit has disseminated a number of cases to the investigatory bodies i.e. the Independent Commission Against Corruption (ICAC) and Commissioner of Police. Four cases have been referred to the Police by the FIU for enquiry, and have been referred to the Director of Public Prosecutions' Office for advice.

The following is an update for the period September 2002 to May 2006, disaggregated by alleged predicate offences detected from STRs disseminated:

| Alleged Predicate Offences | Percentage (%) |
|---|---|
| Copyright | 3.6 |
| Corruption | 3.6 |
| Drugs Related | 35.1 |
| Embezzlement | 10.8 |
| Illegal Betting | 2.7 |
| Large Cash Transaction | 14.4 |
| Pornography | 9 |
| Swindling | 6.3 |
| Trade-based | 23.4 |

## (1.3) Is Mauritius's FIU adequately structured, funded, staffed and provided with sufficient technical and other resources fully to perform its authorized functions?

**(a) Structure**

The Financial Intelligence Unit (FIU) which was set up in 2002 under the Financial Intelligence and Anti Money Laundering Act 2002 is administered by a Board consisting of a Chairman and two other members and the Director is the Head of the FIU. The FIU is essentially a technical organization and employs about twenty (20) people to fulfill its core functions and seven (7) people in its support division. A copy of its organizational chart is at Annex I.

**(b) Funding**

The following government grants were received by the FIU for financial year:

2002/2003- MUR 5.43 M
2003/2004-MUR 13.95 M
2004/2005-MUR 20.59 M
2005/2006-MUR 17.22 M

**(c) Technical and Other Resources**

Since 2002, the FIU has invested about Rs 6 Million on highly secured and reliable IT infrastructure which is a pre-requisite to carry out analytical work and to produce high quality intelligence packages for use by investigatory and supervisory authorities. However, the FIU has got other projects in the pipeline such as the disaster recovery, integrated database system, enhancement of its in house integrated business system and acquisition of data mining software.

At operational level the FIU is adequately staffed with people having experience in the field of accountancy, banking, law and investigation.

**(1.4) In its fourth report, Mauritius states that it has no alternative funds remittance agencies/transfer services and that such services are prohibited (p.9). Have there been any prosecutions for violation of this law? What measures are in place to regulate cross-border cash couriers?**

Yes. Police versus AKM who is being prosecuted for having carried on the business of money changer without authorization. As regards measures to regulate cross border Cash Couriers, Mauritius has adopted the disclosure system with respect to the Financial Action Task Force (FATF) Special Recommendation IX as allowed in the Interpretative Notes issued by the FATF in this regard. As a matter of policy, it has been decided that the Customs Department would be the competent authority for that matter.

The Customs Act is in the process of being amended to give effect to FATF Special Recommendation IX on Cash Couriers.

The Bank of Mauritius, for its part has issued Guidance Notes on AML/CFT to the banking industry which inter alia, contain the essential ingredients of the FATF Special Recommendation IX on Cash Couriers.

**(1.5) Mauritius states that its Registry of Associations Act (1982) contains sufficient safeguards with respect to the collection of funds and expenditures by charities and that the Registrar is empowered to conduct inspections and audits(second report,p4). Are regular audits of charitable associations conducted in practice?**

According to section 19(1) of the Act, no registered association shall apply its funds except for:

(a) the furtherance of its objects; and
(b) the payment of-
(i) reasonable emoluments to its employees;
(ii) reasonable allowances or expenses to its officers; and
(iii) reasonable expenses for its administration, including the auditing of its accounts.

Section 19 (4) states that a registered association shall not-

(a) collect funds, or act as an agent, in Mauritius on behalf of any person;

(b) except-

(i) with the approval of the Minister; and
(ii) on compliance with the Exchange Control Act, transfer its property or funds to any country outside Mauritius and

(c) make any payment in Mauritius-

(i) on behalf of a person not resident in Mauritius; or
(ii) in respect of any activity of the association other than its activities in Mauritius.

Section 19 (5) provides that when any payment is made in contravention of subsection (4), the Registrar may, on behalf of the foreign association, recover the amount paid from the person making the payment or from the payee.

Section 15 (1) empowers the Registrar to cancel the registration of a registered association on the ground that-

(a) the registration of the association was obtained by fraud or misrepresentation;
(b) the association has engaged, or is about to engage, in activities likely to cause a serious threat to public safety or public order;
(c) the association has contravened its rules or this Act, and has persisted in its default after the registrar has given it written notice specifying the default and fixing a time which shall not be less than twenty-one days for remedying the default, and that time has expired;
(d) the association has in any way misapplied its funds; or
(e) the association has ceased to function.

Section 20 "requires every office who is responsible fro keeping any account of a registered association or for the collection, receipt, disbursement, custody or control of the money of the association shall keep a record of all money received and paid by him for and on behalf of the association and shall-"

Section 31 provides that the Registrar may inspect and audit the books of a registered association and its bank and cash balances. Every officer or former officer shall, on written notice from the Registrar, produce to him, at such time and place as may be specified in the notice, any book or document in the custody of the officer or former officer.

Section 32 provides that the Registrar-
(a) may, if he has reasonable ground to believe that any condition specified in section 5(1) exists in relation to a registered association; and
(b) shall, upon the written application of –

(i) one tenth of the members of a large association; or
(ii) one fifth of the members of an association other than a large association,

call for all accounts and documents relating to the association, and institute an inquiry into the affairs and conduct of the association.

**(1.6) Explain the rules for identification of account-holding persons or entities and those on whose behalf an account is maintained (i.e. beneficial owners); beneficiaries of transactions conducted by professional intermediaries; and any person or entity connected with a financial transaction. Are financial institutions required to obtain information on trustees, settlers/grantors and beneficiaries of trusts?**

The reply of the Financial Services Commission is at Annex II.

Section 55 of the Banking Act 2004 in respect of identity of customers provides as follows:-

(1) Every financial institution shall only open accounts for deposits of money and securities, and rent out safe deposit boxes, where it is satisfied that it has established the true identity of the person in whose name the funds or securities are to be credited or deposited or the true identity of the lessee of the safe deposit box, as the case may be.

(2) Every financial institution shall require that each of its accounts be properly named, at all times, so that the true owner of the accounts can be identified by the public and no name shall be allowed that is likely to mislead the public.

It is therefore mandatory for financial institutions to verify the true identity of their customers before opening any account, accepting any deposit of money and securities and renting a safe deposit box. In that respect, it is in context to state that the Financial Intelligence and Anti-Money Laundering Regulations 2003 expressly prohibit financial institutions from opening anonymous or fictitious accounts.

By virtue of Section 55(2) of the Banking Act 2004 the keeping of reference accounts by financial institutions is prohibited.

Breach of section 55 of the Banking Act 2004 is an offence which carries a fine of not less than one million rupees and not more than 5,000,000 rupees.

With regard to the period prior to 10 November 2004, the date on which the Banking Act 2004 became operative, the provisions of the Banking Act 1988 were applicable in Mauritius. Breach of section 40 of the Banking Act 1988 with respect to "Identity of Customers", during that period carries a fine of not less than 10,000 rupees and not more than 5,000,000 rupees.

In addition, the FIAMLA requires every financial institution to verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions.

The manner of verification of identity and address of customers is prescribed in the Financial Intelligence and Anti-Money Laundering Regulations 2003 as amended.

Paragraphs 7, 8 and 9 of regulation 4 of the Financial Intelligence and Anti-Money Laundering Regulations 2003, as amended by the Financial Intelligence and Anti-Money laundering (Amendment) Regulations 2005, provide as follows with respect to the identification of beneficial owners:

(7) A relevant person shall, at the time of establishing a business relationship take reasonable measures to determine whether the applicant for business is acting on behalf of a third party.

8.(a) Subject to subparagraph (b), a relevant person who determines that the applicant for business is acting on behalf of a third party shall keep a record that sets out-

(i) where the third party is a natural person, the identity of the third party;
(ii) where the third party is a body corporate or unincorporated, proof of identity as specified in paragraph (5); and
(iii) the relationship between the third party and the applicant for business.

(b) (i) subparagraph (a) shall not apply to an omnibus account which is held by a relevant person.
(ii) Every relevant person shall comply with any code or guidelines issued by its supervisory authority in respect of omnibus accounts.

(9) Where a relevant person is not able to determine that the applicant for business is acting for a third party, he shall-

(a) make a record of the grounds for suspecting that the applicant for business is so acting; and
(b) make a suspicious transaction report to the Financial Intelligence Unit."

Further, the Bank of Mauritius and the Financial Services Commission are empowered by the Financial Intelligence and Anti Money Laundering Act 2002 to issue such codes and guidelines as they consider appropriate to combat money laundering activities and terrorism financing. These codes and guidelines, which the Bank and the Financial Services Commission are empowered to enforce, include inter alia provisions on Know Your Clients (KYC) principles. Copy of the Guidance Note is at Annex III.

**(1.7) Which investigation techniques and measures are used by the competent law enforcement bodies to investigate offences related to the financing of terrorism? Are these bodies provided with training in the investigation of such crimes? Are judges and prosecutors trained to deal with cases involving acts of terrorism, including terrorist financing?**

The offence of financing of terrorism is criminalized in the Convention for the Suppression of the Financing of Terrorism Act 2003. The Financial Intelligence Unit and the Police Department are called upon to work together to provide intelligence and investigate suspicion on financing of terrorism transactions that may be reported by financial institutions or other reporting entities. The Financial Intelligence Unit has developed a fast track approach to deal with reports relating to suspicion of financing of terrorism transactions. Reports are analyzed within 24 hours and disseminated to the Commissioner of Police and other supervisory bodies as the case may be.

No training has been received so far with respect to investigation into those crimes (FIU).

Judges and prosecutors receive no specific training to deal with cases involving acts of terrorism, including terrorist financing, except for the following:

(1)From 2-6 February 2004, a training workshop on Capacity Building in Combating Terrorism was organized by the Commonwealth Secretariat in Windhoek, Namibia in which 1 prosecutor from the DPP's Office was a participant.

(2) From 14-16 March 2006, a regional training workshop was organized by the COMESA in relation to Counter Terrorism and Terrorist Financing in which equally 1 prosecutor was a participant.

There is need for further training of Judges and prosecutors in this field.

**Effectiveness of international cooperation in criminal matters**

**(1.8) In its second report (p10), Mauritius states that it will soon be preparing a new extradition act and new legislation on mutual legal assistance in criminal matters; this legislation will envisage multilateral and bilateral cooperation in criminal matters, taking into account the relevant South African Development Community (SADC) and African Union instruments (second report). The Committee would appreciate an update on the status of this proposed legislation.**

The new Extradition Bill has not yet been finalized. The Mutual Assistance in Criminal and Related Matters Act was passed by Parliament in 2003. On 24 October 2005, a Memorandum of Understanding on Mutual Legal Assistance in Criminal Matters was signed between Mauritius and the Republic of India. One of the reasons motivating the signing of the Memorandum of Understanding relates to the need felt by both countries to suppress crimes relating to terrorism. The report at Annex IV highlights the action taken in the past years to implement the Financial Action Task Force (FATF) 40 plus nine recommendations to combat money laundering and the financing of terrorism.

**(1.9) The Committee notes Mauritius statement in its third report (p.5) that "claims of a political motivation" will not suffice as a basis for refusing request for the extradition of alleged terrorists. What criteria are applied in determining whether an act constitutes a political offence under domestic law? Are any of the offences mentioned in paragraph 2 (c) of resolution 1373 (2001) considered political offences under Mauritian law? If so, the Committee would be grateful to receive a copy of the relevant legislation.**

Section 7 of the Extradition Act provides for instances where restrictions can be placed on the surrender of persons. Section 7(1) states that an offender shall not be surrendered to a Foreign State where the offence in respect of which the request for his surrender is made is one of political character or where he proves to the satisfaction of the Minister to whom the responsibility of external affairs is assigned, that the request for his surrender has in fact been made with a view to trying punishing him for an offence of a political character. Under section 8(5) of the Convention for the Suppression of the Financing of Terrorism Act 2003, it is stated that notwithstanding the provisions of the Extradition Act, offences in relation to the financing of terrorism shall be deemed not to be offences of a political character or offences connected with a political offence or offences inspired by political motives for the purpose only of the extradition of a person accused of any such offence as between the Republic of Mauritius and a Convention State.

**(1.10) The Committee notes from the fourth report (p.3) that on 21 February 2003, Mauritius acceded to the Organization of African Unity's Algiers Convention on the Prevention and Combating of Terrorism and that it was, at that time, participating in negotiations with a view to the adoption of the Protocol to that Convention and of the Africa Union Plan of the Prevention and Combating of Terrorism and Code of Conduct on Inter-African Relations. The Committee would welcome a progress report on the adoption and implementation of these instruments. In this regard, the Committee would like to remind Mauritius that joining regional anti terrorism conventions and protocols cannot be viewed as an alternative to joining all 13 international conventions and protocols relating to terrorism.**

**OAU Convention on the Prevention and Combating of Terrorism (1999)**

The 35th Ordinary Session of the Assembly of Heads of State and Government in Algiers held in Algiers on 13 July 199 adopted the Convention. It entered into force on 6 December 2002.

On 27 January 2003, Mauritius acceded to the Convention and deposited the Instrument of Accession on 21 February 2003.

Mauritius entered the following reservation in relation to Article 22 (2):

"Any dispute that may arise between the Republic of Mauritius and any State party regarding the interpretation or application of the Convention may, failing amicable settlement only be referred by any one of the Sates parties to the International Court of Justice in conformity with the Statute of the Court. The Republic of Mauritius does not recognize the right of any such dispute involving the Republic of Mauritius to arbitration by other State Parties to the Convention."

**Protocol to the OAU Convention on the Prevention and Combating of terrorism (2004)**

The Third Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa on 8 July 2004 adopted the Protocol. As at 8 December 2005, 23 Member States have signed the Protocol.

Mauritius has not yet signed the Protocol.

At the 2nd Meeting of Focal Points of African Centre for the Study and Research on Terrorism (ACSRT) which was organized under the patronage of the African Union from 18-20 May 2006 in Algiers, the following documents were discussed and adopted:

(i) The Code of Conduct regulating the relationship between the Focal points and the ACSRT; and
(ii) The Threat Assessment/Evaluation Questionnaire: Focal Point Template.

**(1.11) Is there a witness protection programme in place in your country? If so, are there any specific features of that programme applicable to cases involving terrorism? If not, what steps does Mauritius intend to take to introduce such a programme?**

There is no witness protection programme as such.

Section 29 of the Prevention of Terrorism Act 2002, inter alia, provides that a Court may, on motion by or behalf of the Director of Public Prosecutions, order that no person shall publish:

(c) the name, address or photograph of any witness in any case tried or about to be tried before it for any offence under the Prevention of Terrorism Act 2002; or
(d) any evidence or any other matter likely to lead to the identification of the witness.

The Court may also, on motion by or on behalf of the Director of Public Prosecutions, in the interest of public safety or public order, exclude from proceedings instituted for any offence under this Act, any person other than the parties and their legal representatives. Any person who contravenes this order shall commit an offence.

**Effectiveness of customs, immigration and border controls**

(1.12) **The Committee notes that Mauritius has a unified data system in place at all four entry and exit points (fifth report, pp 6 and 7) and that identity checks on passengers are not performed until after the aircraft has landed. Does Mauritius intend to implement an advanced passenger manifest program to scan inbound passengers on international flights against terrorist databases prior to landing? Is there an automated alert for terror suspects? If so, who maintains the alert system and is it available to all border clearance personnel?**

The Passport and Immigration Office intend to implement an Advance Passenger Information System to scan inbound passengers on international flights against terrorist databases prior to landing. At present, the name of all passengers are checked at entry points and if it relates to any name appearing on the list of terrorists supplied by the UNSC, the pre-arranged code for such category of person will appear on the computer screen and action to deny access will immediately be taken.

Mauritius intends to implement the advance passenger information.

(1.13) **Mauritius states that passenger data is not entered until two or three days after arrival and that it has plans to upgrade the system used by the Passport and Immigration Office in order for such information to be entered immediately (fifth report, p6). The Committee would appreciate an update on progress in this regard.**

The travelers' data are now entered within 24 hours. The Passport and Immigration Office will be able to instantly capture passenger data when the new Border Control System which is now at Tender Stage is implemented.

(1.14) **What has been done to improve the quality of national identification documents, apart from passports, in order to meet minimum international security standards aimed at making them impossible to duplicate, falsify or obtain fraudulently?**

A new passport with added security features like ghost print under UV light is being issued since October 2005.

The Department of Civil Aviation is looking into specifications concerning the issue of Crew Member Certificates in a Machine Readable version.

The following proposals are under consideration:

(a) The introduction of an Application Form to be completed by applicants for the first issue of a National Identity Card. Particulars (names, address and identity) provided by the applicant should be certified by the parents/legal guardian; and

(b) A new National Identity Card is being designed wherein all data items will be captured digitally on pre-printed continuous paper which will include security features. Presently a system of Polaroid film is being used for the printing of the National Identity Card.

(1.15) **Are equipment and trained personnel in place at border locations to determine whether suspect travel documents are counterfeit, altered or stolen? If not, is there a plan to provide this capability?**

Trained personnel are posted at border locations. Training is also carried out to update them on latest techniques to check documents.

**(1.16) Does Mauritius have technology in place to detect forged or falsified travel documents?**

Trained personnel and equipment are in place at border location. Each immigration counter is equipped with a Computer, UV Lamp, passport reader. A request has been made for the procurement of a Questionable Document Examination machines/apparatus (QDX) for verification of fake documents.

**Effectiveness of controls preventing access to weapons by terrorists**

**(1.17) In its fifth report, Mauritius stated that a firearms bill was awaiting introduction to the National assembly (p.7). The Committee would appreciate an update on the status of this draft legislation.**

The Firearms Act 2006 has now been voted and gazetted and will be proclaimed shortly. Under section 47 of the Firearms Act 2006, where a person has been convicted of an offence under the Prevention of Terrorism Act 2002, the Court before which the person is convicted, may make such order as to the forfeiture or disposal of any firearm or ammunition found in his possession and the Court may cancel any firearm licence held by the convicted person.

**Effectiveness of aviation and Maritime security**

**(1.18) The international Civil Aviation Organization (ICAO) recently initiated a Universal Security Audit Programme to audit all Contracting State's compliance with Annex 17 of the Convention on International Civil Aviation. Has Mauritius encountered any problems in implementing Annex 17? If so, please explain the kinds of difficulties and the standards concerned**

The Civil Aviation (Security) Regulations were passed in 2002, our National Civil Aviation Security Programme which was adopted also in 2002 has been reviewed and a second edition adopted in 2004.

Mauritius has been audited by ICAO from 22-29 March 2006 under the Universal Security Audit Programme.

We have already received the final audit report and we are targeting 31 July 2006 for submission of a contention plan.

Amendment 11 to Annex 17 is already effective and will become applicable on 1st July 2006. We have consulted all stakeholders on the new provisions and we will shortly be proposing new text for adoption of the amendment to the Civil Aviation (Security) Regulations.

**(1.19) Does Mauritius intend to make contributions to the ICAO Plan of action in order to strengthen aviation security through security audits, urgent assistance to States, provision of training courses and a range of guidance material, and various other projects?**

Mauritius makes financial contributions to ICAO Aviation Security Plan of Action to the tune of 0.06/0.07% annually.

**(1.20) In the context of the measures established in the International Maritime Organization (IMO) International Ship and port facility Security Code (ISPS), the Committee would welcome information on the measures that Mauritius has implemented in order to prevent unauthorized access to port facilities and to ships moored at such facilities.**

The importance of controlling the physical access to the Port facility, its installations and cargo is deemed crucial on a security point of view. Once physical access has been achieved by persons of ill intentions, many illegal activities can be expected to happen or subjected to various forms of exploitation. To address this important issue, the following measures have been put in place:-

**Landside**

(i) Screening of all port users with regard to any criminal activities.
(ii) Control Posts (six in all) consisting each of a gate house, gates and raising arm barriers have been set up at strategic points in the port.
(iii) To enhance the monitoring of vehicles and other port users, a CCTV network consisting of 43 cameras, comprising of 19 fixed units will be installed in the very near future.
(iv) A perimeter fencing of about 6km has been erected around the port area to prevent illegal intrusion.
(v) An access pass system has been put in place to monitor access of port users. The pass system caters for both restricted and non-restricted areas based on a zoning system.
(vi) The control posts are being manned on a 24 hr basis by members of the Mauritius Police Force.
(vii) A strike force under the responsibility of the Port Police has been instituted to remain on stand by basis to respond to any emergency in a short lapse of time.
(viii) The Port area has undergone a complete upgrading of its lighting system.

**Marine Side**

The security control over the water plan is being carried out by the National Coast Guard personnel. The NCG performs regular patrol to ensure that no illegal activities take place within the port limits. Special emphasis is being laid on small crafts and other pleasure boats entering the harbour day and night.

**Declaration of Security**

The Port Facility Security Plan for the Port of Port Louis establishes the procedures to be followed when on the instructions of the Government, the Port Facility Security Officer requests for a Declaration of Security or when a DoS is requested by a ship. The Port facility and the ship shall agree on the security measures and responsibilities to ensure compliance with the mandatory requirements of the code, which inter alia include the monitoring of restricted areas to ensure that only authorized persons have access to the port facility and the ship.

**Automatic Identification System**

In line with the requirements of the ISPS Code, the Authority is envisaging the installation of radar with an Automatic Identification System on the new Harbour radio Tower which will be erected on top of Capitainerie Building for a close monitoring of the movement of all vessels calling at Port Louis.

**(1.21) What safeguards has Mauritius put in place in order to verify the integrity of staff employed at port facilities and on board ships, both upon hiring and during employment?**

It is to be pointed out that the recruitment of crew members is a prerogative of ship owners and the latter in practice always employ staffs from their pool, who have a proven track record, both in their capacity and integrity. Mauritius intends to introduce a system of Seafarers Identity Document (SID).

**(1.22) The Committee would be interested to learn the measures that Mauritius has put in place in order to respond to threats to, or breaches of, the security of port facilities and ship/port interfaces.**

The level of response, the resources required and the organizations involved in response to threats or breaches of security will be dictated by the nature and imminence of the threat. The three security levels (1, 2 &3) reflect the likelihood that a security incident will occur and will be set by the Designated Authority based on the threat information obtained from the Security services. Higher security levels indicate greater likelihood of occurrence of a security incident.

**Security Level 1**

At Security level 1, the port has the baseline security measures in place. It denotes security breaches which can be effectively managed by the Port Police with the assistance of local enforcement agencies. The measures presently in place are:

(i) checking identity of all persons seeking entry in the port;
(ii) checking of (suspected) all vehicles to ensure that they are in possession of valid passes issued by the Mauritius Ports Authority;
(iii) verification of the identity of port personnel and those employed within the port facility to ensure that they are in possession of a valid MPA pass; and
(iv) restricting access to exclude those not employed in the port, if they are unable to establish their identity.

**Security Level 2**

The level will involve the deployment of additional law enforcement officers and equipment within the port area. This heightened security level requires the enforcement of security measures such as:

(i) limited access to the port area and stricter control to sensitive zones;
(ii) increasing the frequency and degree of searches of persons, personal effects and vehicles; and
(iii) using patrol vessels to enhance waterside security.

**Security Level 3**

This level is to be initiated when credible information has been obtained that a threat is imminent. The measures identified to address these types of security threats are:

(i) suspension of access to all, or part of, the port facilities;
(ii) granting access to only law enforcement and emergency responders;
(iii) increased security patrols, including sea patrols;
(iv) suspension of port operations, if the need arises; and
(v) evacuation, either total or partial, of the port community.

**Installations having ship/shore interface**

All installations having ship shore interface (17 in all) have carried out a Port Facility Security Assessment and have a Port Facility Security Plan duly approved by the Designated Authority. These installations have to ensure that all mandatory security measures enshrined in the Code are fully complied with.

**(1.23) The Committee would appreciate information on the drills carried out by Mauritius in order to test the effectiveness of security measures at port facilities and on the outcome of such drills.**

**Drills**

The Port Security Committee will meet incessantly to decide on the dates for security drills to be carried out in accordance with the mandatory requirements of the Code.

## (2.0) Implementation of resolution 1624 (2005)

**Paragraph 1**

**(2.1) What measures does Mauritius have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?**

Section 3 of the Prevention of Terrorism Act 2002 provides for the prohibition of acts of terrorism. Any person who does, threatens to do or does an act preparatory to or in furtherance of an act of terrorism or omits to do anything that is reasonably necessary to prevent an act of terrorism shall commit an offence punishable under the said Act. An act of terrorism is defined, inter alia, as an act which may seriously damage a country or an international organization and is intended or can reasonably be regarded as having been intended to seriously intimidate a population, unduly compel a Government or an international organization to perform or abstain from performing any act or serious destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization or otherwise, influence such government or international organization whilst under section 6 of the Prevention of Terrorism Act 2002, any person, who in any manner or form, solicits support for or tender support to a prescribed organization, commits an offence. "Support" includes inter-alia, instigation to the cause of terrorism, offer of material assistance, weapons including biological, chemical or nuclear weapons, explosives, training, transportation, false documentation or identification.

Attention is drawn here to the Civil Aviation (Hijacking and Other Offences) Act 1985 which incorporates the provisions of the Hague, Montreal and Tokyo Conventions on aviation security.

**(2.2) What measures does Mauritius take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?**

Under section 8(1)(l) of the Immigration Act, persons declared suspected international terrorists under the Prevention of Terrorism Act 2002 are deemed to be prohibited immigrants and shall not be admitted

to Mauritius. A deportation order may be issued in respect of a prohibited immigrant if the Minister deems it fit under section 4 of the Deportation Act. Under section 11 of the Mauritius Citizenship Act, a citizen of Mauritius may be deprived of his citizenship by Order of the Minister where the latter is satisfied that the citizen has shown himself by act or speech to be disloyal or disaffected towards the State or is, or has been declared, a suspected international terrorist under the Prevention of terrorism Act 2002.

Under section 6 of the Prevention of Terrorism Act, any person who solicits support or tenders support in relation to an act of terrorism or solicits support for or tenders support to a proscribed organization shall commit an offence. "Support" includes instigation to the cause of terrorism under the Act.

**Paragraph 2**

**(2.3) How does Mauritius cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?**

Being an island, Mauritius has only two points of entry which are controlled by Customs and Police Officers whereas our Exclusive Economic Zone is under close surveillance by the National Coast Guard. There also exists a close collaboration amongst neighboring states through the Indian Ocean Commission and relevant information is shared. Moreover, the Police database is regularly updated with information provided by Interpol Headquarters and other International Organizations and appropriate measures are taken to prevent illegal entry on our territory. Rodrigues forming part of the island of Mauritius also has two points of entry.

We benefit from the Cooperation Programme of Singapore and the Transportation Security Administration of the United States in the field of aviation security. We have also benefited from an aviation security audit by the French authorities.

**Paragraph 3**

**(2.4) What international efforts is Mauritius participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?**

(i) Mauritius is among the first signatories of the UNESCO Convention on Cultural Diversity.
(ii) An expert will be visiting Mauritius next month to carry out a feasibility study on the setting up of an Indian Ocean observatory on cultural diversity. (Funded by UN agency).

**(2.5) What steps is Mauritius taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?**

The National Security Service (NSS) which is established under the Police Act 1974, as subsequently amended, obtains, correlates and evaluates intelligence relevant to national security, including any

incitement of terrorists acts motivated by any other person by any means. Moreover, the Criminal Code makes provisions under Section 282 "to prevent the stirring up of racial hatred among the different sections of the population."

**Paragraph 4**

**(2.6) What is Mauritius doing to ensure that any measures taken to implement paragraphs 1,2, and 3 of resolution 1624 (2005) comply with all obligations under international law, in particular international human rights law, refugee law and humanitarian law?**

Such measures are reviewed by the High-Level Committee which consists of representatives of all relevant Ministries, including the Prime Minister's Office and the Attorney General's Office and Ministry of Human Rights.

**(3.0) *Assistance and Guidance***

**(3.1)** The Committee wishes to emphasize once more the importance that it attaches to the provision and advice in connection with the implementation of resolutions. The Committee's Directory of assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee takes note of the fields of technical assistance requested by Mauritius in its first report, p(12), second report (pp 13-16), fourth report (p.17) and fifth report (pp. 111-12) and is pleased to inform Mauritius that its requested assistance has been brought to the attention of potential technical assistance providers through the Committee Matrix.

**(3.2)** Furthermore, in light of the specific areas related to Mauritius's implementation of resolution 1373 (2001) outlined in Section 1 of this letter, and based on Mauritius's reports to the Committee and on the other relevant information available, the Committee, with assistance from the CTED experts, has conducted a preliminary analysis of Mauritius' technical assistance needs in order to identify priority areas in which the Committee believes Mauritius may benefit from receiving technical assistance. With the agreement of and in cooperation with the Government of Mauritius, the aim is to identify the best possible way for Mauritius to benefit from technical assistance to strengthen its implementation of the provisions of this resolution.

**(3.3)** The analysis identified, on a preliminary basis, the following potential areas of assistance needs, with the understanding that further assessments may be necessary. The points below represent selected areas, amongst the areas referred to in the resolution, where assistance might be particularly useful:

- Full implementation of the international counter-terrorism conventions and protocols to which Mauritius is a party;
- Training in terrorist financing investigation techniques
- Training in money laundering investigation techniques;
- Adoption of legislation providing for mutual legal assistance and judicial cooperation in criminal matters;
- Border control measures and , in particular, upgrading of computer databases containing information on traveler's entry and exit; and
- Training of law enforcement and security agencies in the latest terrorism investigation techniques.

**(3.4)** The Committee would like to receive your country's approval to share the above-mentioned points with donor States and organizations that may be in a position to provide assistance in these selected areas (other parts of this letter will not be shared). This would enable the Committee to facilitate the provision of technical. The Committee would appreciate receiving your country's response no later than 30 days from the date of this letter. If your country's response is not received within that period, the Committee will assume that the points could be shared with donor States and organizations. The actual provision of assistance will naturally be subject to Mauritius's request and consent. The Committee would also welcome any comments that Mauritius have regarding this section (Section 3 on assistance and guidance).

## (4.0) Further Guidance and Submission of Further report

**(4.1)** The Committee wishes to maintain the constructive dialogue it has established with Mauritius in relation to measures it is taking to implement the resolutions, in particular with regard to the areas identified in this letter as a priority. The Committee and its Executive Director stand ready to provide further clarification to Mauritius on any of the matters raised in this letter.

**(4.2)** The Committee would be grateful to receive from Mauritius further information on the questions and comments raised in sections 1 and 2 of this letter by 6 July 2006. Moreover, the Committee would be grateful if Mauritius would provide it with an update on assistance it has received, or is in the process of receiving, including on whether such assistance has satisfied, or is expected to satisfy, Mauritius needs related to the resolutions. As with previous reports, it is the intention of the Committee to circulate the further report as a document of the Security Council. It is open to Mauritius, if desired, to submit a confidential annex to the report for the attention of the Committee and its Executive Directorate alone.

**(4.3)** The Committee may, in future stage of its work, have further comments or questions for Mauritius arising from other aspects of the resolutions. It would be grateful to be kept informed in the relevant development regarding the implementation of the resolutions by Mauritius.

Annex I

# *Organisation Chart*